

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: OFFICE OF CONSUMER ADVOCATE, Complainant, vs. SPRINT COMMUNICATIONS, L.P., Respondent.	DOCKET NO. FCU-03-50
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**ORDER DOCKETING FOR FORMAL PROCEEDING
AND REQUIRING RESPONSE**

(Issued January 20, 2004)

On October 9, 2003, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed with the Utilities Board (Board) a petition for a proceeding to impose civil penalties pursuant to Iowa Code § 476.103 (2003), asking that the Board review the proposed resolution issued in C-03-185, involving Sprint Communications, L.P. (Sprint), and consider the possibility of assessing a civil penalty pursuant to Iowa Code § 476.103(4)"a." Based upon the record assembled in the informal complaint proceedings (which are a part of the record in this proceeding pursuant to 199 IAC 6.7), it appears the events to date can be summarized as follows:

On August 4, 2003, Mr. Shinaali Evans filed a complaint with the Board against Sprint alleging that his subscribed long distance service at his residence had been changed to Sprint without proper authorization. Board staff identified the matter as C-03-185 and, pursuant to Board rules, on August 5, 2003, forwarded the complaint to Sprint for response.

Sprint responded to the complaint on September 5, 2003, stating that its records showed it received a "Letter of Agency for Residential Long Distance Service" (LOA) that was executed on January 31, 2003, in a Sprint PCS store by Vincent Shirao, Mr. Evans's nephew, who was living with Mr. Evans at the time the LOA was executed. Sprint provided a copy of the LOA as well as a copy of the written notice of change of service that was sent to Mr. Shirao on February 3, 2003. Sprint further stated that Mr. Evans's account was cancelled on March 20, 2003 and that charges in the amount of \$567.98 were generated on the account during the time it was open.

As a courtesy to Mr. Evans, Sprint stated that it has issued a temporary credit to Mr. Evans' account in the amount of \$414.22, which reflects the charges for use during the first 30 days of service. It is Sprint's position that the remaining balance of \$153.76, which reflects the charges for use outside of the first 30 days of service remain owed to Sprint. Sprint stated neither Mr. Evans nor Mr. Shirao made a payment towards the Sprint account and that due to the length of time the balance

has been outstanding, Sprint referred the outstanding balance to an outside collections agency.

On September 10, 2003, Board staff forwarded a copy of the LOA to Mr. Evans asking that he review the document and respond in writing by September 19, 2003. A response from Mr. Evans was received on September 18, 2003.

On September 25, 2003, Board staff issued a proposed resolution describing these events and finding that Sprint did not have the proper authorization to change Mr. Evans' long distance telephone provider. The proposed resolution directed Sprint to credit all charges to Mr. Evans' account and prohibited Sprint from pursuing collection activity in relation to the charges. No party other than Consumer Advocate has challenged the staff's proposed resolution.

In its October 9, 2003, petition, Consumer Advocate asserts that a civil penalty should be imposed against Sprint to deter future slamming violations. In addition, Consumer Advocate asserts that other slamming complaints received by Board staff have named Sprint as the alleged violating company. Consumer Advocate requests that the Board docket this complaint for a formal proceeding and impose civil penalties on Sprint.

The Board has reviewed the record to date as well as the additional slamming complaints made against Sprint and finds that there is sufficient information to warrant further investigation in this matter. The Board recognizes that there has not been any action in this matter for some time. Therefore, the Board will delay

establishing a procedural schedule until March 8, 2004, and require that Sprint respond to the allegations raised in Consumer Advocate's petition.

IT IS THEREFORE ORDERED:

1. The "Petition for Proceeding to Impose Civil Penalty" filed by the Consumer Advocate Division of the Department of Justice on September 2, 2003, is granted and docketed for formal proceeding.
2. Sprint Communications, L.P., is requested to file a response to the petition filed by Consumer Advocate on October 9, 2003, on or before March 8, 2004.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 20th day of January, 2004.